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up the breach of condition as to notice. *Dewey v. National Casualty Co.*, 72 N. Y. Misc. 23, 129 N. Y. Supp. 136 (Sup. Ct.).

One reason for the doctrine of waiver in insurance law is that forfeiture would otherwise be occasioned to the insured. See *Graham v. Security Mutual Life Ins. Co.*, 72 N. J. L. 298, 303, 62 Atl. 681, 683. A limitation of the amount of indemnity, as in the principal case, is not an attempt to proportion the insurer's liability to the loss incurred by the insured, but is clearly a provision for a partial forfeiture. If the case is analogous to cases of total forfeiture for breach of condition, it is opposed to the current of authority. *Brink v. Guaranty Mutual Accident Association*, 28 N. Y. St. Rep. 921, 7 N. Y. Supp. 847; *Metropolitan Accident Association v. Froiland*, 161 Ill. 30, 43 N. E. 766. Nor is it in accord with cases of partial forfeiture for breach of analogous conditions. *Thompson v. St. Louis Mutual Life Ins. Co.*, 52 Mo. 469.

INSURANCE — WAIVER OF CONDITIONS — CONDITION POSTPONING LIABILITY. — A policy of fire insurance postponed the insurer's liability to pay to the end of a certain period of time. Within that period, the insured brought suit. Before this action, but after the fire, the insurer had denied liability on the ground that the insured possessed no insurable interest in the premises. *Held*, that the action is premature. *Irwin v. Ins. Co. of North America*, 116 Pac. 294 (Cal., Ct. App.).

This case is opposed to two legal theories. The first is the insurance doctrine of waiver and estoppel. In applying that doctrine, a distinction might have been taken between absolute defenses and conditions which merely postpone liability; for only the former produce the forfeitures abhorred by insurance law. However, no such distinction has been made. *State Ins. Co. v. Maackens*, 38 N. J. L. 564; *Edwards v. Fireman's Ins. Co.*, 43 N. Y. Misc. 354, 87 N. Y. Supp. 507. The principal case also infringes the somewhat doubtful doctrine of anticipatory breach of contracts. *Hochster v. De la Tour*, 2 E. & B. 678. *Contra*, *Daniels v. Newton*, 114 Mass. 530.

INSURANCE — WAIVER OF CONDITIONS — INSURER'S COURSE OF DEALING PRIOR TO ISSUANCE OF POLICY. — A complaint on an annual credit insurance policy stated that the plaintiff, the insured, had broken the condition for proof of loss, but that for a number of years the defendant had written similar policies for the plaintiff and had never made full compliance with the condition necessary. *Held*, that the complaint is demurrable. *Shedd v. American Credit-Indemnity Co.*, 95 N. E. 316 (Ind., App. Ct.).

In at least three types of cases have waiver and estoppel been predicated upon an insurer's course of conduct relative to a condition, or another condition similar to the condition, subsequently broken by the insured. The dealings may have been between the insurer and insured under the very policy involved. *Hartford Life Ins. Co. v. Unsell*, 144 U. S. 439, 12 Sup. Ct. 671. The insurer's acts may have referred to conditions in concurrent policies issued to the same insured person. *Home Protection of North Alabama v. Avery*, 85 Ala. 348, 5 So. 143. Or the insurer may have been dealing with other policy holders. *Estes v. Ins. Co.*, 67 N. H. 462, 33 Atl. 515. *Contra*, *Haupt v. Phoenix Life Ins. Co.*, 110 Ga. 146, 35 S. E. 342. A possible fourth type involves the breach of a condition in a policy issued subsequently to the insurer's conduct. See *Ins. Co. v. Plato*, 23 Ohio Circ. Ct. Rep. 35. It differs from the other types in that the condition in the new policy may notify the insured that the insurer will enforce the condition. Such notice is effective. *Brown v. Pennsylvania Casualty Co.*, 207 Pa. St. 609, 56 Atl. 1125. But the insurer may have disregarded the condition in so many prior policies that its insertion in a subsequent policy is ineffective as notice. It might be held that such conduct is not alleged in the principal case. However, it professes to decide that there cannot be waiver and estoppel of the fourth type.